

1. Pursuant to Title 28, United States Code, Sections 1332(a)(1), 1441(a-b), and 1446, **Regal Cinemas, Inc.**, Defendant in Cause No. 2020CI13545 in the 224th Judicial District Court of Bexar County, Texas, files its Notice of Removal to remove this matter from State court to the United States District Court for the Western District of Texas, San Antonio Division. Other than the filing of responsive pleadings on behalf of named Defendant, no progress has been made in the State court suit prior to the filing of this Notice of Removal. As set forth below, the United States District Court has jurisdiction over this case under Title 28, United States Code, Section 1332(a), because (1) this is a civil action; (2) complete diversity of citizenship exists between the parties in interest, as described below, and (3) the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

2. The United States District Court for the Western District of Texas, San Antonio Division, is the proper Court into which to remove this action under 28 U.S.C. §1441(a-b) and §1446(a) because this district and division embrace the place in which the removed action was pending.

### **Citizenship of the Parties**

3. Plaintiff Frank Aguilar is a resident and citizen of the State of Texas.

4. Plaintiff Cynthia Aguilar is a resident and citizen of the State of Texas.

5. Defendant Regal Cinemas, Inc. (Improperly named as “Regal Cinemas, Inc., Individually, And D/B/A Alamo Quarry Cinemas #440939”) is an entity organized and existing under and by virtue of the laws of the State of Tennessee with its principal place of business in the State of Tennessee.

6. Defendant AAT Alamo Quarry, LLC, Individually and D/B/A Alamo Quarry Market is an entity organized and existing under and by the virtue of laws of the State of Delaware with its principal place of business in California.

### **Statement of Causes of Action/Amount in Controversy**

7. As pled in the Plaintiffs’ Original Petition, a true and correct copy of which is attached hereto, Plaintiffs assert a negligence cause of action against Regal Cinemas, Inc., and seeks to recover compensatory damages for personal bodily injuries and damages. Plaintiffs specifically plead for damages in excess of over \$200,000.00 but not more than \$1,000,000.00. When removal is sought on the basis of diversity jurisdiction, the sum demanded in good faith in the initial pleading shall be deemed to be the amount in controversy. 28 U.S.C. §1446(c)(2). It is facially apparent that the damages sought in this case constitute an amount in controversy in excess of \$75,000. *De Aguilar v. Boeing Co.*, 11 F.3d 55, 57 (5th Cir. 1993); *Barton v. Allstate*

*Ins. Co.*, 729 F. Supp. 56, 57 (W.D. Tex. 1990). These facts alone establish that the amount in controversy in this case meets the jurisdictional requirements for removing a case to federal court.

### **Timeliness of Removal**

8. Defendant Regal Cinemas, Inc., was served with the Citation and Plaintiffs' Original Petition on August 4, 2020. As required by 28 U.S.C. Section §1446(b)(1), this Notice of Removal of this civil action is being filed within 30 days after Defendant's receipt of Plaintiff's initial pleading and the date it first ascertained that the case is one which is removable.

### **Consent to Removal**

9. Defendant AAT Alamo Quarry, LLC, Individually and D/B/A Alamo Quarry Market has been served with process and filed its answer in state court on August 31, 2020. Defendant AAT Alamo Quarry, LLC, Individually and D/B/A Alamo Quarry Market consents to removal. There are no other known defendants for which joinder in, or consent to, this removal is necessary.

### **Notice to Adverse Parties and State Court**

10. A copy of this Notice of Removal has been filed with the Clerk of the 224<sup>th</sup> District Court for Bexar County, Texas, where this cause was originally filed, which shall effect the removal and the State court shall proceed no further unless and until the case is remanded. 28 U.S.C. §1446(d). A copy of this Notice of Removal has also been provided to Plaintiffs' counsel as required by 28 U.S.C. §1446(d). Accordingly, all matters in the State court proceeding, including discovery, is suspended.

### **Compliance with Additional Filing Requirements**

11. Pursuant to 28 U.S.C. §1446(a) and Local Rule CV-3, the following items are

being filed with this Court, either as exhibits to this Notice of Removal or as separate contemporaneous filings:

- (1) A civil cover sheet (JS 44);
- (2) True and correct copies of all pleadings, process and orders served against this Defendant in this action;
- (3) True and correct copies of all pleadings served by this Defendant in this action;
- (4) List of all Counsel of Record;
- (5) Jury Demand.

**Prayer**

12. WHEREFORE, Defendant Regal Cinemas, Inc.'s (Improperly named as "Regal Cinemas, Inc., Individually, And D/B/A Alamo Quarry Cinemas #440939") prays that this cause proceed in this Court as an action properly removed. Defendant further prays that this Court place this action on its docket for further proceedings as though it had originated in this Court and that this Court issue all necessary orders.

Respectfully submitted,

**BROTHERS ALVARADO PIAZZA & COZORT, P.C.**

By: /s/ Andrew J. Martinez  
Andrew J. Martinez  
State Bar No. 24077222  
[amartinez@brothers-law.com](mailto:amartinez@brothers-law.com)  
10333 Richmond Avenue, Suite 900,  
Houston, TX 77042  
(713) 337-0750 – Telephone  
(713) 337-0760 – Facsimile

**Attorneys for Defendant, Regal Cinemas, Inc.**

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing instrument was served upon the following counsel of record in compliance with Rule 21a of the Texas Rules of Civil Procedure on this the 31<sup>st</sup> day of August, 2020.

**VIA FAX AND/OR E-SERVICE**

Mr. Jessie J. Ormand  
Mr. Ryan King  
HAGWOOD ORMAND & KING, LLC  
1520 E. Highway 6  
Alvin, Texas 77511  
[firm@hokfirm.com](mailto:firm@hokfirm.com)

**VIA FAX AND/OR E-SERVICE**

Kenneth J. Ferguson  
Jared L. Byrd  
GORDON REES SCULLY MANSUKHANI, LLP  
816 Congress Avenue, Suite 1510  
Austin, Texas 78701  
[kferguson@grsm.com](mailto:kferguson@grsm.com)  
[jbyrd@grsm.com](mailto:jbyrd@grsm.com)

**BROTHERS ALVARADO PIAZZA & COZORT, P.C.**

By: /s/ Andrew J. Martinez  
Andrew J. Martinez